Justice Done?
Criminal and Moral Responsibility Issues In the Chinese Massacres Trial Singapore, 1947

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Introduction

The Japanese Occupation of Singapore from February 1942 to August 1945 was a particularly momentous period of loss and sacrifice for the Chinese population as compared to other ethnicities, because they were the targets of brutal Japanese military policies. During a month of screening procedures and indiscriminate massacres in 1942 known as *sook ching*, or cleansing operations, an undetermined number of civilians were separated from their families and friends and suffered uncertain fates. In many cases, the last time relatives saw loved ones was at a screening center before the unlucky victims were driven away in trucks to unknown destinations. After the war, when it became clear that the Japanese Army had committed atrocities in Singapore, a British crown colony at the time, the British legal system conducted an investigation and a trial in order to administer justice in 1947. Although the court considered the case closed, the matter was never fully settled in the eyes of the public and a question remained as to whether justice had been adequately rendered.

The Singapore massacres are not as familiar to Western scholars as the Nanking and Manila Massacres although all three involved civilian populations. The thousands killed in Singapore are by no means insignificant and should rightfully claim their space among the Japanese war atrocities committed during WWII. The

investigation into this event also adds to the body of knowledge on Japanese military administration in Southeast Asia. This thesis draws upon archival material at the Singapore National Archives and the Public Records Office (PRO) in Kew, London for eyewitness testimonies of the atrocities and the transcript of the Chinese Massacres trial respectively. Although a few other historians and scholars have referred to both collections, this paper is the first attempt to draw on both simultaneously in order to understand the chain of events leading to the decision for *sook ching* and subsequently, to determine responsibility for the affair.

The investigation into the affair revealed a massacre of mostly Chinese civilians numbering in the thousands. Through a supposedly systematic screening process whose official goal was to weed out anti-Japanese elements, the Japanese army killed at least five thousand people between February and March 1942. In reality, the selection process was unselective and random which led to deaths of innocent Chinese civilians. Procedures differed at each center. At certain locations, the men waited for several days before the screenings started. Screenings could consist of interviews by a Japanese officer and a local interpreter or they could include as little as walking in single file past the officers. Many families reported male members taken away by trucks to undisclosed locations. Contemporary eyewitness accounts later confirmed the rumors that soldiers had

massacred groups of men but little physical evidence was discovered until the 1960s.

The killing of civilians in wartime equaled a war crime. After the Japanese surrender, the British established procedures for war crimes trials both in the European as well as in the Pacific theatre. The British arrested seven Japanese officers and charged them with: "Committing a war crime in that at Singapore Island between the 18th February and 3rd March 1942, the accused … being all responsible for the lives and safety of civilian inhabitants were, in violation of the laws and usages of war, together concerned in the massacre of Chinese residents of Singapore Island…," thereby following the precedent set at Nuremberg and Tokyo.[1]

Although the trial put seven Japanese military personnel to the task of defending their actions during the massacres, the court identified and dismissed two other guilty parties. They were the Emperor Hirohito and General Yamashita of the Twenty-Fifth Army, from whom the orders for the screenings originated. This paper explores both the emperor's and the general's guilt in order to create a more complex picture of accountability for the massacres.

Hirohito's general war guilt in WWII was and remains a topic of interest for both scholars and public opinion internationally.

[1] Public Record Office, Kew, London [PRO]: War Office [WO] 235/1004, Judge Advocate General's Office, War Crimes Case Files, Second World War. 10 March 1947 to 8 May 1952, *Transcript of 'Chinese Massacres Trial' and related documents*, 12.

However, this thesis will focus on the arguments for his innocence as presented in the Chinese Massacres trial. In brief, neither the prosecution nor the defense wanted to indict him for reasons because to do so would involve issues such as legal and historical precedent and divine sanctity.

General Yamashita was a different story. He had already been executed for crimes committed in the Philippines. The defense was therefore eager to place all responsibility on him by using the plea of superior orders, in essence arguing that the court should sentence only the superior who had issued the original orders. Subordinate officers, the defense argued, had no choice but to follow orders and therefore should not be held responsible. The prosecution countered with tenets of international law relating to command responsibility, stating that all officers were responsible for their actions and for those of their subordinates.

In this way, the prosecution placed the blame squarely on the defendants. It argued that the orders the defendants implemented ran counter to both international and Japanese law. In addition, the screenings were premeditated and thus nullified the defense's plea of immediate military necessity that claimed that the screenings were used to maintain domestic security during the Occupation by eradicating only anti-Japanese influence. Another essential point was that the officers allowed the soldiers in their command to commit

these atrocities with full knowledge that the screenings were beyond the specific scope of the original orders.

The prosecution's argument was a compelling one and the court sentenced two officers to death and the remaining five to life imprisonment. Nonetheless, public opinion split on this affair. Portions of the surviving Chinese population remained unsatisfied and called for further retribution by demanding further investigations and trials of more officers. A more moderate stance, on the other hand, called for leniency by attributing responsibility to the entire Japanese military ideology, thus removing accountability from individuals.

This paper presents the arguments for and against the culpability of each of the three parties, namely Emperor Hirohito, General Yamashita and the seven defendants on trial in 1947 for the Chinese massacres. It is not meant as a definitive judgment on who ultimately was responsible, for the very nature of the crime creates an immense number of potential culprits. Rather, it is an attempt to go beyond the purely descriptive function of the archival material to analyze the legal arguments within the trial that survivor accounts corroborate. The thesis will argue that the trial, though successfully prosecuting and convicting the defendants, was unsuccessful in convincing the public that justice had been done, which leads to a larger question; can legal proceedings for cases of mass atrocity ever create that sense of justice and closure.

An interesting aspect of the trial is that it did not provide a solid sense of punishment and therefore justice to the Chinese population in Singapore. Scholars have argued that war crimes trials begin a long process of peace and reconciliation with the past. If nothing is done to condemn war crimes, not only will a culture of impunity arise that may encourage future crimes, but cycles of deep resentment in the victimized population may lead to further conflict.[2] Trials reject the notion of collective guilt by publicizing individual guilty defendants and attempt to convey a notion of justice served.[3] The Chinese Massacres trial, however, while demonstrating guilt of individual officers, did not satisfy the Chinese population who continued to demand retribution well into the 1960s and in decreasing recurrence until the 1990s. However, the demands shifted from those of criminal indictment to ones of monetary compensation and official apology—from individual to collective responsibility. In effect, justice may have been served within the courtroom, but it was seen not to have been done, thus rendering the case still open in the minds of the public.

Surrender of Singapore and the Beginning of the Japanese Occupation

[2] A brief discussion of this theme can be found in Neil J. Kritz, "War Crimes on Trial," in *War Crimes*, ed. Henny H. Kim (San Diego: Greenhaven Press, Inc., 2000), 90-100. For a fuller discussion, see Mark Osiel, *Mass Atrocity, Collective Memory and the Law* (New Brunswick: Transaction Publishers, 1997).
[3] Kritz, 91.

The assault on Singapore began at midnight on February 8, 1942. It ended after only seven days of battle. General Percival surrendered Singapore to the Japanese commander, Tomoyuki Yamashita, on February 15, 1942.[4] The fact that Singapore, considered impregnable and an essential base in the Pacific, had fallen so easily to the enemy was a severe blow to the Allies. Yamashita made a statement in the Syonan Times newspaper that declared Singapore, now renamed Syonan-to, part of the East Asia Co-Prosperity Sphere as well. There was also an alarming premonition of things to come:

> *Nippon armies hereby wish Malayan people to understand the real intention of Nippon and to cooperate with Nippon army toward the prompt establishment of the New Order and the Co-prosperity Sphere. Nippon army will* ***drastically expel and punish*** *[emphasis added] those who still pursue bended delusions as heretofore, those who indulge themselves in private interests and wants, those who act against humanity or disturb the public order and peace and those who are against the orders and disturb the military action of Nippon army.*[5]

The last sentence of that declaration was a vague excuse later used to justify the army's severe military policies against the ethnic Chinese population of Singapore.

An example of drastic punishment appeared before long. Shortly after the occupation began, the military beheaded eight Chinese looters caught red-handed and displayed their heads on

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[4] Paul H. Kratoska, *The Japanese Occupation of Malaya* (London: Hurst & Company, 1998), 41. The Japanese invasion is treated briefly. For further detail, see Timothy Hall, *The Fall of Singapore*, (Australia: Methuen, 1983); Masanobu Tsuji*, Singapore: The Japanese Version* (New York: St. Martin's Press, 1960).

[5] Kratoska, 45.

spikes at central locations as an example that transgressions would not be tolerated.[6] While this brutal behavior would be typical of the treatment that followed, it was unplanned. The systematic "cleansing operation" that followed, however, was planned.

Sook Ching (February - March 1942)

The "cleansing operation" or *sook ching* took place in February and March 1942. Military reasons decided the need for *sook ching*. The Malayan campaign had weakened the Twenty-Fifth Army and General Yamashita was concerned that the army would not be able to hold Singapore. The military was also aware of the role that Chinese volunteers, including Communists, played in defending Singapore. Anti-Japanese sentiment ran high among the Chinese, and Yamashita was afraid that they might rise against the Japanese.[7] In addition, the harsh resistance the Twenty-Fifth Army encountered during the Sino-Japanese war had embittered the soldiers against the Chinese. Consequently, security had to be quickly established and anti-Japanese elements routed.[8]

The General Headquarters of the Twenty-Fifth Army issued the order to launch the operation on the evening of February 18, 1942.[9] The order was passed to Major General Kawamura who then passed it

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[6] H. Sidhu, *The Bamboo Fortress* (Singapore: Native Publications, 1991), 78.
[7] Yoji Akashi, "Japanese Policy Towards the Malayan Chinese, 1941-1945," *Journal of Southeast Asian Studies* 1, no. 2 (September 1970): 67.
[8] Akashi, 63-65.
[9] PRO: WO 235/1004, *Transcript*, 347.

to Lt. Col. Oishi emphasizing that "justice ... should be the guide for punishment." His directive also included the vague terms "severe punishment." Soldiers were able to interpret these terms on their own and often abused the order, a key point in the Chinese Massacres trial in 1947.[10]

The *kempeitai* (military police) oversaw the *sook ching*. Officially, they categorized Chinese men into nine categories:

> *1. Persons who had been active in the China Relief Fund;*
> *2. Rich men who had given most generously to the Relief Fund;*
> *3. Adherents of Tan Kah Kee, the leader of the Nanyang National Salvation Movement; school masters, teachers, and lawyers;*
> *4. Hainanese, who, according to the Japanese, were Communists;*
> *5. China-born Chinese who came to Malaya after the Sino-Japanese war;*
> *6. Men with tattoo marks, who, according to the Japanese, were all members of secret societies;*
> *7. Persons who fought for the British as volunteers against the Japanese;*
> *8. Government servants and men who were likely to have pro-British sympathies, such as Justices of Peace, members of the Legislative Council; and*
> *9. Persons who possessed arms and tried to disturb public safety.*[11]

In practice, the categories were difficult to enforce and impractical. Frequently, the Japanese apprehended men who did not have pro-Chinese or pro-British sympathies.

Noting the speed at which *sook ching* took place, prosecutors at the Chinese Massacres Trial in 1947 proved that the Japanese army

[10] Akashi, 67-68.
[11] Akashi, 68. The transcript of the 'Chinese Massacres' Trial' provides a shorter and vaguer list of categories. See PRO: WO 235/1004, *Transcript*, 22.

had planned the cleansing operation before the surrender of Singapore. Major Onishi, a defendant in the trial, testified, "Before we arrived in Singapore orders were issued from Gen. H.Q. which stated that due to the fact that the Army is advancing fast, and in order to preserve the peace behind us, it is essential to massacre many Chinese who appear in any way to have anti-Japanese feelings." Another colonel in the army also testified that he had held lists of 'undesirables' to be screened for several days before the 18th.[12] Thus, *sook ching* was a premeditated operation designed to enhance security in a threatening environment.

Sook ching began on February 21 under the command of Major General Kawamura Saburo, commander of the Syonan garrison army, and his subordinate, Colonel Oishi.[13] The original date to complete the operations was February 23 but the process continued until March 3 when it became clear that the operation would not be completed in time.[14] The island was divided into four sections and garrisoned by the 5th and 18th Divisions, the *Kempeitai* Division, the Garrison Army, and the Imperial Guards.

Screenings: Lambs to the Slaughter?

[12] PRO: WO 235/1004, *Transcript*, 347.
[13] PRO: WO 235/1004, *Transcript,* 12. Yoji Akashi presents 17 February as the date the orders for *sook ching* were issued. See Akashi, 68. However, other sources corroborate the 18 February date. See National Archives of Singapore, *The Japanese Occupation 1942-1945* (Singapore: Times Edition Pte Ltd, 1996), 67; Archives and Oral History Department, *The Japanese Occupation: Singapore, 1942-1945* (Singapore: Singapore News and Publications Ltd., 1985), 40.
[14] PRO: WO 235-1004, *Transcript*, 541; Sidhu, 141.

The Japanese army screened a significant percentage of the Chinese population in Singapore at different locations and by using little to no force. Mass screening centers were established in places such as schools, and notices were put up informing the Chinese population that males aged eighteen to fifty should present themselves for inspection.[15] Here, though, the systematic order broke down. Due to the vague wording of the orders and the speed at which the operations had to be carried out, there were many discrepancies between procedures at different screening centers. Women and children were also recorded at several centers. The way in which men were distinguished from the crowd to be taken away differed markedly from site to site. Depending on the extent of the interview process, the screenings could last anywhere from one to seven days.

An interesting aspect of the screening process was that the Japanese only had to force a few people into the screening centers. The most direct method involved Japanese soldiers going to individual houses and instructing the occupants to leave. The inhabitants would then move to the screening centers after the soldiers made their rounds.[16] Other times, local police, called 'running dogs' by the detainees would come in place of the Japanese soldiers.[17] The

[15] National Archives of Singapore, *The Japanese Occupation 1942-1945* (Singapore: Times Edition Pte Ltd, 1996), 67-69.
[16] Ng, Jack Kim Boon, interview A000362, Oral History Department, National Archives, Singapore.
[17] Chu Chui Lum, interview A000533, Oral History Department, National Archives, Singapore.

Japanese employed other less direct methods as well. Notices were posted in prominent locations and advertised in the newspaper.[18] One survivor remembers her father hearing about the screening through word of mouth and he promptly went to the center on his own.[19]

The news of screening procedures spread rapidly. A few never went to the centers. For example, Gay Wan Guay stayed at a house belonging to a friend whose mother was Japanese. He emphasizes that there was "no methodical way of checking" if people were evading the screening process. In addition, Wong Lan Eng and her brother never entered the screening center. They walked halfway to the center before changing their minds and returning home.[20]

In all these cases, the Japanese seems to have used little force in coercing the Chinese population into the screening centers. Many survivors remember hearing news of Japanese atrocities in China but were apparently naïve enough to believe that such war crimes could not be committed in Singapore.[21] Many thought the screening procedures were for labor or registration purposes.[22] A few noted

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[18] Lauw Kim Guan, interview A000031, Oral History Department, National Archives, Singapore; Ho Pak Seng, interview A000415, Oral History Department, National Archives, Singapore.
[19] Mary Lim, interview A000421, Oral History Department, National Archives, Singapore.
[20] Wong Lan Eng, interview A000007, Oral History Department, National Archives, Singapore.
[21] Charlie Fook Ying Cheah, interview A000385, transcript, Oral History Department, National Archives, Singapore.
[22] Ang Seah San, interview A000419, Oral History Department, National Archives, Singapore.

that the notices posted said something about a speech given by the Japanese and that they should congregate to hear the speech.[23]

Screening Procedures: A Hit-or-Miss

The lack of care that the Japanese soldiers took in enforcing the screenings extended to the screening procedures used. Survivors testified to a variety of screening methods used. Survivors mention the use of interviews by Japanese officers and their translators during the screening process. Many report being asked their names, ages, and occupations. High-ranking Japanese officers conducted some of the interviews.[24] Officers also looked for tattoos that supposedly marked a man as a Chinese Communist.[25]

Some centers did not have interviews at all. Chu Chui Lum recalls men standing before a Japanese MP. A local informer would stand next to the officer. If the informer nodded, the man would be sent away on a truck.[26] An interview conducted by the Oral History Department, Singapore with Charlie Fook Ying Cheah highlights the random process by which Chinese males were taken away to unknown fates.

[23] Ho Pak Seng, interview A000415, Oral History Department, National Archives, Singapore.
[24] Ang Seah San, interview A000419.
[25] Chin Sin Chong, interview A000612, Oral History Department, National Archives, Singapore.
[26] Chu Chui Lum, interview A000533.

> *Interviewer: Mr. Cheah, you mentioned that a Taiwanese soldier came to the flats and asked all the Chinese males to go down to assemble. Do you remember what did he tell all of you?*
>
> *Cheah: It was not a Japanese soldier. He looked more like a local chap who went round the whole estate and exhorted all the male Chinese people to come down, and line up for identification…*
>
> *Interviewer: Did the person tell you what was the whole thing all about?*
>
> *Cheah: No. The person did not say what it was all about. All that he shouted out was that all male Chinese were to come out and line up for identification. Again [for] that so-called purpose of 'tengkis' [identification card] …*
>
> *Interviewer: Did you notice whether these Japanese officers were asking questions or did they just see and let you pass?"*
>
> *Cheah: No questions were asked. You just passed by and if you were in the clear, you collected your pass. Otherwise they just pulled you out. Not physically. Pointed a finger and asked you to go. The Japanese officers were not doing anything. …*
>
> *Interviewer: From your observation there did you notice who were the sort of people that were sort of asked to move aside, that were not cleared?*
>
> *Cheah: Well, I saw several of them, one of which was my brother. And then my two mates who were in front of me. Of course they had a soldier's crop. So automatically they joined the crowd there … None of those three or anyone of those who were asked to stand aside were ever heard of ever since that day. And up to the present moment it still remains a mystery as to what happened to them.*[27]

Several physical characteristics appear to have been targeted by the Japanese. Men wearing spectacles or with tattoos and those with smooth palms indicating an easy life were singled out.[28] In other cases such as Cheah's, no questions were asked or characteristics targeted. This is not wholly surprising as the soldiers had to screen

[27] Charlie Fook Ying Cheah, interview A000385.
[28] Tan Guan Chuan, interview A000414, Oral History Department, National Archives, Singapore.

thousands of people in a short amount of time.[29] Lee Kip Lim admits that if the procedures had been stricter and more systematic, more people including himself would have died.[30]

Cheah was lucky because the procedures only lasted a day. In other screening centers, the proceedings often lasted five or six days. Sometimes, the civilians were forewarned and asked to bring enough food and water along. Other times, they had to wait without rations.[31] Detainees were asked to bring rations for different amounts of time, indicating that the Japanese had no idea how long the procedures would take.[32]

In some centers, women and children were detained as well before being released a few days into the screening.[33] In others, only men were required to be present.[34] Whatever the gender and age makeup of the detainees, one fact stands out. Survivors reported no Malays and only a few Eurasians and Indians in the camps.[35] The fact that there was a predominantly Chinese population in the screening centers signified a Japanese racial bias in its military policies.

Massacres of Thousands

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[29] Lim Choo Sye, interview 000330, Oral History Department, National Archives, Singapore..
[30] Lee Kip Lin, interview A000016,, Oral History Department, National Archives, Singapore.
[31] Lee Kip Lin, interview A000016; Lim Choo Sye, interview A000330.
[32] Lauw Kim Guan, interview A000031; Lee Kip Lin, interview A000016.
[33] Ng, Jack Kim Boon, interview A000362.
[34] Lee Kip Lin, interview A000016.
[35] Lim Choo Sye, interview A000330.

The lucky men who were not detained by the Japanese soldiers received a stamp on either their clothing or a body part. They were told not to wash the stamp off as it meant clearance to move around in the city.[36] They left the centers and returned to their homes. Other men were not so lucky.

The whereabouts of the unlucky men who were taken away in trucks from the screening centers remained unknown to their friends and relatives for a long time. Rumors circulated that the men had been shot.[37] Other survivors of the Occupation said they heard machine gun firing along Changi Beach, one of the known massacre sites. After the war, skulls and bones were discovered in shallow graves on the beach.[38] Chan Cheng Yean, a Malacca Volunteer Corps member and survivor of the Bedok Massacre, recalls his horrifying experience:

> *… So I totaled at that time, there were 90 of us … The order came and then they just shoot, brang … then the second time they shoot, brang … up to round about three times like that. So those who died will fall down. So I was hit on my knee. Suddenly I remember that I am still alive. So when the first man dropped dead, I followed him … So I just fell in on the top. Then the third man covered me on the top again … So I control my breath, I do not make any movement of body so that there is no sign of anyone alive. So they are not sure… to make sure all are dead, they give a third fire. Another 10 rounds, bomp-bomp-bomp, like that finished. Then they have no time they cover*

[36] Lim Choo Sye, interview A000330; Yap Siong Eu, interview A000286, Oral History Department, National Archives, Singapore.
[37] Lauw Kim Guan, interview A000031; Kenneth Jai Nen Chia, interview A 000448, Oral History Department, National Archives, Singapore.
[38] Lee Kip Lin, interview.

> *with the plank. And then they go to the next group, and so on to another group and they finished in 20 minutes time.*[39]

The numbers massacred during the two-month period remains unclear. Officially, the 'Chinese Massacres' Trial of March 1947 puts the number at around five thousand but unofficially, estimates place the numbers as high as fifty thousand.[40]

Chinese Massacres Trial and International Law

One can examine the Chinese Massacres trial as one of the war crimes trials occurring in the early post-WWII period that solidified moral and legal concepts for the prosecution of war criminals. Although the history of conventional war crimes is long, the record of formal codification of laws of war is shorter. A significant document contributing to the clarification and systematization of such laws appeared in the *Lieber Code* in 1863. Also known as "General Orders No. 100," this was a document used by the United States military that established standard military rules and disciplinary actions for their enforcement.[41]

International conventions for behavior during war were not common until the 1899 Hague Convention. Other conventions followed but the World War II trials remain a turning point in helping

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[39] Chan Cheng Yean, interview A000248, transcript, Oral History Department, National Archives, Singapore.
[40] "War Death: Plea for Payment is Being Studied," *Straits Times* (Singapore), March 9, 1962; PRO: WO 235/1004, *Transcript*, 541.
[41] Telford Taylor, "The Development of the Laws of War," in *War Crimes*, ed. Henny H. Kim (San Diego, CA: Greenhaven Press, 2000), 49-50.

to establish international regulations for human rights and a substantial body of legal knowledge to implement such regulations.[42] One should remember that often-cited documents in international human rights, such as the *Universal Declaration of Human Rights* and the *Convention on the Prevention and Punishment of the Crime of Genocide,* were not established until 1948.[43] It was no coincidence that this occurred just as the series of war crime trials ended.

The Allies laid out a significant number of regulations regarding legal procedures and definitions of war crimes and war criminals in 1945 and 1946. It seemed clear that trials would be held and that punishments would be meted out. A British Royal Warrant titled "Regulations for the Trial of War Criminals" defined a 'war crime' as "a violation of the laws and usages of war during any war in which His Majesty has been or may be engaged at any time since the 2nd September, 1939…"[44] Three major categories of violations—crimes against peace, war crimes, and crimes against humanity—were listed in the Charter of the International Military Tribunal for the Far East (IMTFE).[45] Clearly, the *sook ching* fit the criteria and fell under

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[42] Martha Minow, *Between Vengeance and Forgiveness* (Boston: Beacon Press, 1998), 27.
[43] United Nations, *Universal Declaration of Human Rights, 1948*, in *Basic Documents on Human Rights*, ed. Ian Browlie, 3rd ed. (Oxford: Clarendon Press, 1992), 21; United Nations, General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide, 1948*, in *Basic Documents*, 31.
[44] Howard S. Levie, *Terrorism in War – The Law of War Crimes*, Terrorism: Documents of International & Local Control, 2nd series (Dobbs Ferry, NY: Oceana Publications, Inc., 1993), 544.
[45] Levie, 544.

British legal jurisdiction. Between March and April 1947, a British military court convened to distribute responsibility for the *sook ching*.

Article 5 of the Charter of the IMTFE assigned clear individual responsibility to all levels of command for crimes against humanity:

> *Namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political or racial grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.* ***Leaders, organizers, instigators and accomplices*** *[emphasis added] participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan.*[46]

Considering the range of defendants possible under the Charter of the IMFTE, three distinct parties could have been indicted and prosecuted. They were: the Emperor Hirohito, General Yamashita and seven Japanese officers stationed in Singapore. Both the prosecution and the defense referred to the guilt of each of the three parties in one way or another during the trial.

Emperor's Responsibility

Although Emperor Hirohito was a potential defendant according to the Allies' declaratory statements, he was never tried for any war crimes committed in the Pacific. Using the Tokyo war crime trials as a precedent, the prosecution rejected the notion of ascribing

[46] International Military Tribunal for the Far East, *Charter of the International Military Tribunal for the Far East* [document on-line], 19 January 1946; available from http://www.yale.edu/lawweb/avalon/imtfech.htm; Internet; accessed 26 March 2001.

responsibility to Hirohito. Moreover, rather than center the defense argument on the emperor as an individual, the defense called upon the cult of the emperor and the loyalty code that surrounded Hirohito as justification for the *sook ching*.

The United States originally toyed with the idea of indicting Hirohito for war crimes especially during 1943 and 1944.[47] The State Department in conjunction with the War and Navy departments suggested that treatment of the emperor as a war criminal would be a step towards establishing a democratic government.[48] However, MacArthur advised the American government to veto any attempt to try Hirohito: "If he [Hirohito] is to be tried great changes must be made in occupational plans and due preparation therefore should be accomplished in preparedness before actual action is initiated. His indictment will unquestionably cause a tremendous convulsion among the Japanese people, the repercussions of which cannot be overestimated." MacArthur also warned that a significantly larger number of troops would be required to occupy Japan if such upheaval were to occur. This letter from MacArthur dated January 25, 1946 obliterated any American desire to try the emperor. As the main occupying power, the United States effectively destroyed any attempt by the Occupation forces to incriminate Hirohito for war crimes,

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[47] Robert E. Ward, "Presurrender Planning: Treatment of the Emperor and Constitutional Changes," in *Democratizing Japan*, ed. Robert E. Ward and Sakamoto Yoshikazu (Honolulu: University of Hawaii Press, 1987), 3-5.
[48] Ibid., 12.

resulting in the International Military Tribunal for the Far East (IMTFE)'s decision not to indict the Emperor Hirohito for war crimes in 1946.[49] A precedent absolving the emperor of any responsibility was set in place.

Although Hirohito was not indicted, he was forced to renounce his divine status in a speech to the people on New Year's Day, 1946. He called the theory of the Emperor as a "living deity" a sham based on "mere mythology and legends."[50] It was a monumental change calling into question the basis of much of military ideology that emphasized loyalty to a divine figurehead. Unfazed by the emperor's sudden renunciation, the defense counsel focused implicitly on the divine cult of the emperor and explicitly on the loyalty required by this cult.

The defense counsel focused on the code of loyalty within the Japanese army. They argued that soldiers were legally bound to obey the orders given to them. The Imperial Rescript to Military Forces in particular likened a superior's orders to those of the Emperor. Insubordination would be a crime committed against the Emperor, a divine entity. As head of state, the Emperor technically was responsible for all military orders. Yet, the defense maintained the Emperor was not responsible because he was not the one who directly gave the order. The Imperial Rescript did not mean that all legal

[49] Ibid., 16.
[50] Edward Behr, *Hirohito: Behind the Myth* (London: Hamish Hamilton, 1989), 11.

responsibility should fall on the emperor. Instead, the defense referred to the emperor's person as sacred and inviolate so the Rescript should have been interpreted to mean that he was exempt from responsibility as a divine being.[51] Surely they wanted to protect the Emperor from any hint of culpability.

This line of defense followed the principles of *bushido* or the 'way of the warrior'. The *Gunjin Chokuron*, or the Meiji Imperial Code of Military, incorporated *bushido* starting in 1882. The first Article demanded loyalty to one's superiors and devotion to the emperor. As time passed, the Code took on a different meaning. Article 1, which originally meant loyalty to the state, was taken to mean direct loyalty to the emperor. In this way, a code that originally emphasized loyalty to the state became centered on the cult of the emperor.[52] Yet, the emperor could not be held responsible because he was a divine entity and not subject to secular laws.

The prosecution in turn followed the IMFTE precedent and did not pursue the issue. Thus, the court did not hold the emperor accountable for the massacres. The prosecutor, Major Frederick W. Ward, argued against the defense counsel's supposition that "any order is the Emperor's order in the Japanese Army, and that the soldier is particularly warned to bear in mind that this is so." Ward used a previous example of a mutiny in 1936 where subordinates were

[51] PRO: WO 235/1004, *Transcript*, 32-33; Arnold C. Brackman, *The Other Nuremberg* (New York: William Morrow and Company, Inc., 1987), 77.
[52] Yuki Tanaka, *Hidden Horrors* (Boulder, CO: Westview Press, 1996), 208.

punished for following an order to rebel against the Emperor. Ward pointed out that if every order came down from the Emperor, why was the Emperor not punished for ordering soldiers to revolt against him? Obviously, the order could not have come directly from the Emperor since he would never order his own removal. Therefore, the defense's argument that every order was perceived as an order from the emperor was flawed regardless of whether absolute obedience to his orders was required.[53]

Hirohito's war responsibility was a hotly debated topic both during and immediately after the war. However, neither the Allies nor the Japanese ever called him to account and this held true in the 1947 trial. General Yamashita, on the other hand, was a different case. A military tribunal sentenced and executed him on February 23, 1946 for war crimes committed in the Philippines when he was in charge of the Fourteenth Army.[54] The defense counsel during the Chinese Massacres Trial had no qualms about using Yamashita as a scapegoat for *sook ching*. However, the prosecution blamed the

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[53] PRO: WO 235/1004, *Transcript,* 717-718.

[54] Smith, 48. There is still some uncertainty as to who originally gave the order. Another name that occurs frequently is Masanobu Tsuji. Tsuji's own memoirs conveniently stop with the British surrender and do not treat the Occupation. See Masanobu Tsuji, *Singapore: The Japanese Version* (New York: St. Martin's Press, 1960). For a thorough but sensationalist account of Tsuji's supposed involvement in *sook ching*, see Ian Ward, *The Killer They Called a God*, (Singapore: Media Masters, 1992). Other sources that name Tsuji include Lee Kuan Yew, *The Singapore Story*, (Singapore: Times Editions, 1998), 56; Cheah Boon Kheng, "The Social Impact of the Japanese Occupation of Malaya (1942-45)," in *Southeast Asia Under Japanese Occupation*, ed. Alfred W. McCoy (New Haven, CT: Yale University Southeast Asia Program, 1980), 91-124.

seven officers instead, arguing that all levels of command were responsible for war crimes.

Yamashita's Responsibility

General Yamashita, commander-in-chief of the Twenty-Fifth Army stood at the top of the military hierarchy. As we have seen, fearing a loss of control of occupied Singapore similar to previous incidents in China, Yamashita felt the need to secure the enemy territory as quickly as possible. On the evening of February 18, 1942, the General Headquarters of the Twenty-Fifth Army issued the order to launch *sook ching,* ostensibly to isolate anti-Japanese elements.[55]

The prosecution did not question the origin of the orders as originating from General Yamashita. They instead called on the doctrine of command responsibility to establish that subordinates in the chain of command were not exempt from guilt. Historical and legal precedent assured the prosecution of a clean frame of attack. Ironically, it was the Manila court martial of Yamashita himself that set the precedent for trials of command responsibility. As a commander, it was his duty to maintain discipline and control. The court found Yamashita guilty of failing to control his soldiers' behavior.[56] The general rule on command responsibility cast a wide net that imposed criminal liability for crimes committed by

[55] PRO: WO 235/1004, *Transcript,* 347.
[56] Levie, 158-160.

subordinates because of a commander's negligence. The prosecution in 1947 would use the same indictment against the seven officers.

In the Chinese Massacres trial, the rule on command responsibility effectively destroyed the plea of superior orders that comprised part of the defense strategy. Essentially using Yamashita as a scapegoat, the defense called for recognition of the general's place in the military hierarchy and his responsibility for issuing the orders from the top.[57] In their scenario, only General Yamashita would have been guilty; a convenient ploy considering that the Allies had already executed Yamashita. The prosecution retaliated by arguing that the subordinate officers willingly carried out the orders therefore each level of command could be and should be held responsible for any crimes committed.[58]

The Japanese countered with the claim that soldiers were conditioned to follow orders without question. Couched in terms of respectful cooperation with one's betters, the second article of the Meiji code demanded obedience to one's superiors. A new military ideology modified the code to mean absolute obedience without question no matter how absurd the orders. The corrupted *bushido* ideology thus demanded that soldiers demonstrate loyalty through blind obedience to their superiors. This was a definite alteration of the code. Previous military instructions such as *Gunjin Kunkai*

[57] PRO: WO 235/1004, *Transcript,* 717-718.
[58] PRO: WO 235/1004, *Transcript,* 33.

(Admonition for Soldiers), written by Yamagata Aritomo in 1878 stated that soldiers should not follow orders blindly. Soldiers should be able to question an irrational order even if it was after the fact. The *Gunjin Kunkai* proved impractical in the field as disobedience generally led to a court-martial but it is clear that the original military code did not call for such strict obedience on the part of the soldiers.[59]

The question remained; how far did obedience to one's superiors justify a subordinate's actions. A group of British and European jurists meeting in Cambridge in November 1941 drafted a number of procedures for post-WWII war crimes trials including a statement on the plea of superior orders. They concluded that the superior orders defense was legitimate only if the order was not illegal. The plea itself was not an automatic defense.[60] The prosecution would use this concept as the main thrust of its attack against the defendants.

Throughout the trial, the defense tried to shift the blame onto General Yamashita, a convenient scapegoat who was not alive to defend himself. The plea of superior orders bolstered by a stalwart belief in a corrupted *bushido* created part of the defense strategy. However, the prosecution countered that illegality of the orders made the plea of superior orders irrelevant. The fact that the orders were illegal meant the officers were liable for prosecution.

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[59] Tanaka, 207-209.
[60] Levie, 517.

Responsibility of the Japanese Officers

With Yamashita's execution, only his subordinates could be tried for the Chinese massacres in Singapore. Between March 10 and the April 2, 1947, seven Japanese officers were tried by the Singapore War Crimes Court. They were: Lt. Gen. Nishimura Takuma, Lt. Gen. Kawamura Saburo, Lt. Col. Oishi Masayuki, Lt. Col. Yokota Yoshitaka, Major Jyo Tomotatsu, Major Onishi Satorou, and Capt. Hisamatsu Haruji. All seven pleaded not guilty to the charge of "committing a war crime."[61]

Under Yamashita, the two next senior officers were Nishimura and Kawamura. Nishimura and the Imperial Guards Division controlled the eastern half of the island while Kawamura was in charge of the immediate city area. Under Kawamura, Lt. Col. Oishi controlled a sub-area by leading the military police (*kempeitai*) division. Oishi split his sub-area into five sectors. Yokota and Jyo controlled three and two sectors respectively. Onishi and Hisamatsu each headed one sector under Yokota and Jyo.[62]

The three major officers were Nishimura, Kawamura and Oishi. However, only Kawamura and Oishi were sentenced to death. The court appeared to consider the plea of superior orders in the cases of the other five and gave them life sentences instead of the death

[61] PRO: WO 235/1004, *Transcript,* 12.
[62] Ibid., 21.

penalty.[63] According to the court, Kawamura and Oishi bore the greatest responsibility because most of the massacres occurred in territory under their command.[64] Nishimura, a relatively superior officer, received a lesser punishment because the court decided that he only submitted several units from his command to other officers in order to execute the massacres and did not play a further role.

Deliberately Ambiguous Orders?

A useful defense tactic in war crimes trials arises when orders to carry out mass atrocities are deliberately ambiguous. The ambiguity conceals the true intent of the order. This allows the issuer of the order to evade responsibility by declaring that their subordinates had misinterpreted the order. The issuer had not *meant* for all those civilians to die. The ambiguity allows the subordinate to claim that he was following what he believed to be official orders as any good soldier would while the superior officer can maintain that he never issued that particular order in those terms.[65]

A major problem in the Chinese Massacres Trial was that the commanders passed no formal written orders down. Any documentation of the screening process or disposal procedures had also been destroyed. The gist of the order lay in speed since the Army headquarters originally intended the operation to last only three days

[63] Ibid., 12.
[64] Ibid., 22.
[65] Mark Osiel, *Obeying Orders* (New Brunswick, NJ: Transaction Publishers, 1999), 189, 300.

but it remained unclear how the officers should deal with the suspects in such a short period of time.[66] The nine criteria for screening 'undesirables' were unrealistic. How would a Japanese soldier discover if a Chinese was a Hainanese (a provincial categorization) without a local informant? Many of the criteria such as China Relief Fund activity required a detailed interrogation in order to verify the detainee's guilt. This was impossible considering the number of detainees and the limited time frame. The impossibility of the orders and the need for speed implicated the officers because it was more than likely that the interrogations were a slipshod affair that led innocent people to mass slaughter.

Higher authorities gave no instructions for dealing with the suspects. Neither Yamashita nor Kawamura gave detailed instructions. Oishi apparently interpreted Kawamura's imprecise words, such as 'severe punishment,' in the order to mean 'execute' the Chinese.[67] Interpreting the order to mean mass killings was arguably an overextension of the officers' discretionary powers yet did Yamashita *mean* for the massacres to happen? Did he give deliberately ambiguous orders, cunningly predicting how his subordinates would respond and therefore, *wanting* his officers to kill the Chinese while he maintained his integrity. Determining

[66] PRO: WO 235/1004, *Transcript*, 541, 569.
[67] Ibid.

Yamashita's intent was therefore paramount in establishing responsibility for the *sook ching*.

Yamashita's intent is nearly impossible to determine. Yoji Akashi writes that Yamashita never expected an incident similar to the rape of Nanking to occur, implying that Yamashita did not intend for massacres to occur. No written documents survive, however, and Akashi's assumption is inconsistent with other information.[68] The Twenty-Fifth Army under Yamashita's command developed animosity towards the ethnic Chinese during the China campaigns and were ready to exact revenge in Singapore.[69] Yamashita should have known his own men well enough to predict their actions when presented with an opportunity to conduct brutalities against the Chinese. Therefore, Yamashita's intent in issuing imprecise orders

The prosecution also accused the seven defendants of consciously allowing the screenings to expand past the limits of the original order in terms of whom they detained. The fact that 'occupational arrests,' or arrests based on the victim's occupation, for example, occurred showed that the procedures were not controlled. This is an example of atrocity both from above and from below where specific orders for atrocities were not given but soldiers committed them anyway. The prosecution accused the officers of 'extreme negligence' since it was the responsibility of the commander to realize

[68] Ibid., 569.
[69] Akashi, 67-68.

that all sections were carrying out different screening procedures.[70] Moreover, since the screenings were widely carried out, they could hardly have escaped the officers' notice.

In addition, Ward declared that the court could show the defendants some leniency if they had shown some degree of unwillingness either during or after the massacres. Ward contended that none of the defendants even tried to protest the orders but followed them without question. No opinions reflecting a sense of unfairness in the orders, such as those of a prosecution witness, Ichikawa Tadashi, were contemplated by the defendants.[71]

The detachment of the defendants only added to their guilt and the prosecution claimed that the unrepentant defendants were guilty regardless of whether the atrocities were from above or from below. The intent of the superior giving the order was irrelevant because his subordinates could choose to interpret the orders in any way. Lt. Col. Oishi in particular was responsible for interpreting the order to mean 'kill.' In addition to the abuse of discretionary powers, the defendants consciously allowed their subordinates to expand the scope of the massacres to include "innocent" civilians. The defense countered by maintaining that a refusal to follow orders amounted to military insubordination no matter how vague or impractical the orders were. However, the prosecution retaliated with the argument of illegality.

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[70] PRO: WO 235/1004, *Transcript*, 712-714.
[71] Ibid., 573, 720-721.

Illegality

There were several aspects to the illegality argument raised by the prosecution. First, Major Ward declared the orders a violation of international laws regarding war, which Japan was a signatory. He also argued that mistreatment of civilians was illegal in Japanese military law as well. The defense attempted to counter with a plea of military necessity but the prosecution proved that this argument was flawed since the operations were premeditated.

A major prosecution argument lay in the fact that the orders blatantly contradicted international law. The defense tried to counter this illegality argument with a claim to the plea of superior orders again. This was a weak argument that insisted that an order given by a superior was able to turn an illegal act into a legal one.[72] The prosecution contested this by saying that soldiers should not follow superior orders if they contradicted international law because the order does not deprive the act of its war crime status.[73] The prosecution's opinion follows:

> *The attitude towards the plea of superior orders, as applied in the case of a breach of the laws and usages of War, is that the fact that a rule of warfare has been violated in pursuance of an order by a belligerent Commander, does not deprive the act in question of its character as a War Crime; and that neither does it, in principle, confer upon the perpetrator immunity from punishment by the injured belligerent.*[74]

[72]Ibid., 717.
[73] Ibid., 719-720.
[74] Ibid., 360.

The Hague Convention of 1907 defined general rules of war. They clearly referred to the restrictions on the behavior of occupying forces in relation to the civilian population. Japan was included as a signatory and thus subject to its laws.[75] Therefore, since the massacres breaks tenets of international law, the orders were illegal and not binding. Since the officers willingly chose to follow the orders, they too broke international law.

Also, were the orders illegal even within Japanese military law? Major Ward submitted testimony by witness General Numata conceding that the civilian massacres were contrary to official Japanese military policy. Numata was quoted as saying, "If they are law-abiding people such things would not have been authorized by the Japanese Military Law; it is taught in the Japanese Army that you must treat civilians very kindly."[76] Statements of one of the accused, General Nishimura, also reflected this opinion. Nishimura was quoted as saying, "For me or a soldier to kill an unarmed person is undesirable."[77] Also, according to General Kawamura, the orders were "contrary to the usual method hitherto followed."[78] *Sook ching* was a deviation from standard Japanese military doctrine as well. Therefore, in both Japanese and international military definitions, the

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[75] Hague Convention, *No. IV Respecting the Laws and Customs of War on Land*, The Hague, 18 October 1907 [document on-line]; available from http://www.yale.edu/lawweb/avalon/lawofwar/hague04.htm; Internet.
[76] PRO: WO 235/1004, *Transcript*, 358.
[77] PRO: WO 235/1004, *Transcript* 720.
[78] Ibid., 720.

orders were illegal and should not have been carried out by the seven defendants no matter how much military obedience was emphasized.

Numata and Nishimura's statements followed the *bushido* code of honor. One of the essential elements in *bushido* dictated that a warrior should treat the weak and defeated with tolerance and sympathy. Courageous enemies should be respected. That was the honorable way. The newer *bushido* deflected attention from this tenet and focused instead on the concepts of no surrender and dying with honor in battle.[79] Thus, the adulterated code mandated that anyone who surrendered was a coward and did not deserve sympathy. This led to cruel treatment of POWs in particular because the soldiers did not respect a weak enemy who had surrendered rather than die fighting.

The defense countered the prosecution's argument with the plea of military necessity that claimed the screening procedures were a necessary measure of war. Actions had to be taken to ensure internal security. For this reason, anti-Japanese elements such as members of the Volunteer Forces were isolated. The procedures were a result of extreme emergencies on the island.[80] The prosecution disputed the defense's point of view, pointing out that the Japanese Army planned the screenings were planned well before it entered Singapore.

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[79] Tanaka, *Hidden Horrors*, 207-208.
[80] PRO: WO 235/1004, *Transcript,* 27.

Therefore, they could not be a result of aforementioned emergencies.[81]

The Japanese defense counsel also cited English legal precedents which claimed that defendants could choose a defense based on the premise that they believed, albeit mistakenly, that the orders were lawful.[82] If the officers believed that killing anti-Japanese sympathizers was a military necessity, then there was no doubt in their mind that the orders were legal and they should not be indicted for carrying them out. However, witness testimonials confirmed that innocent civilians probably had been killed through the haphazardness of the screenings. Combined with the fact that the screenings were so widespread, it was difficult to believe that the officers had no knowledge of the atrocities which were illegal both in international and in Japanese law. Yet they did nothing to control the excessive behavior of the army.

The defense counsel countered by pointing out that the orders were only illegal if the civilian population had indeed been mistreated. If those massacred were actually military personnel disguised as civilians, or if they were members of the Volunteer Corps, they were not subject to civilian status: "If the Courts should decide that all those massacred were members of the Straits Settlements Volunteer Corps, then all the accused would be entitled to an acquittal, and

[81] Ibid., 347.
[82] Ibid., 30-31.

must be given an acquittal, for a member of the S.S.V.C. exchanges his civilian for a military status."[83] Interestingly, the defense counsel cited this statement from the prosecution's closing address! The defense emphasized that victim identification was extremely important. A greater chore would then lie on the prosecution's shoulders to prove that those massacred were truly civilians since there was no documentation of the deceased. Missing family members might very well still be living, perhaps in another Japanese colony, unknown to worried relatives. Early issues of the *Syonan Times*, a Japanese propagandistic newspaper that replaced the *Straits Times* during the Occupation contained numerous advertisements calling for information on the whereabouts of relatives.[84] This defense was a weak argument because the prosecution submitted eyewitness testimonies of massacres in areas under the defendants' control.[85]

Through the preceding arguments, the prosecution accused the seven officers of illegal premeditated behavior. The screening procedures were in violation of both international and Japanese military law. Also, the officers abused their discretionary powers by defining the 'punishment' of suspects to mean 'kill,' which added to the need for haste, meant that the defendants failed miserably to control the screenings and many innocent civilians died. Beyond the

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[83] Ibid., 31.
[84] *Syonan Times* (Singapore). Nearly every issue published in March contains missing persons advertisements [document on-line]; available at http://www.knowledgenet.com.sg.
[85] PRO: WO 235/1004, *Transcript,* 15-18.

illegality and the excesses, the defendants also showed no remorse either during or after the procedures. The plea of superior orders and military necessity proved insufficient defense mechanisms as all seven received a guilty verdict.

Who Else Was Responsible?

Were the seven officers the only ones responsible for the *sook ching*? Should Hirohito and Yamashita receive a share of the responsibility? Without a clear account of the chain of events and proof of command responsibility, there can never be a definitive answer. Should their subordinates, such as Hisamatsu Haruji and Ichikawa Tadashi who clearly demonstrated knowledge of and even participated in the massacres, have been indicted?[86] This is a more difficult question to resolve, but public opinion in Singapore in the late forties plainly called for an affirmative answer, signifying that the Chinese Massacres trial was not over to much of the Chinese population.

Public Opinion and Collective Responsibility

The Chinese Massacres trial was a case of high interest among the local population and generated much public discussion. The Singapore Distressed Families Association collected evidence for the prosecution. During the proceedings, large crowds gathered at Victoria Memorial Hall to witness the trial.

[86] Ibid., 602-603, 572-573.

However, many Chinese reacted angrily to the verdict, which they felt was too lenient. The Chairman of the Overseas Chinese Appeal Committee, Tay Koh Yat commented, "There seems to be universal dissatisfaction at the findings of the Court. If it is possible, we want a more severe judgement." The Appeal Committee unanimously decided to press civil and military authorities for execution of the other five defendants. Numerous letters were sent to the editor of the *Straits Times* clamoring for the death penalty for all seven defendants.[87]

The court did not uphold the defendants' appeal. British authorities were unsympathetic and refused to change the decision of the court. A confidential document sent by the Judge Advocate General on May 5, 1947 to the commander of Singapore referred to the local Chinese outcry and dismissed it: "A sentence of imprisonment for life cannot reasonably be described as lenient. In any case, the court had discretion in the matter and there are no means of enhancement, for a sentence cannot be increased on revision and it would be an abuse of judicial discretion to refuse confirmation of the findings concerned…"[88] Subsequently, the court carried the sentences out in mid-June.[89]

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[87] Simon C. Smith, "Crimes and Punishment: Local Responses to the Trial of Japanese War Criminals in Malaya and Singapore, 1946-48," *Southeast Asia Research* 5, no. 1 (March 1997): 49.
[88] PRO: WO 235/1004, *Transcript,* 24.
[89] Ibid., 12.

Chairman Tay called for public executions of the two Japanese officers: "It is just retribution that members of the Chinese community should witness the [execution of the] Japanese who were responsible for over five thousand deaths." The British initially refused but finally allowed several members of the Appeals Committee to witness the executions.[90]

Nonetheless, a sense of revenge remained unfulfilled and the Chinese continued clamoring for justice. Calls were also made for the arrest of all Japanese who had been involved in the mass screenings.[91] Obviously, the defense's argument that the defendants were not guilty due to the plea of superior orders did not sway the majority. Many Chinese firmly believed every Japanese soldier involved in the massacres to be guilty regardless of rank and wanted to see more Japanese put on trial. Lee Pei Chung, a member of the Chinese Women's Federation proclaimed hotly: "We want a life for a life … if 5000 Chinese have been killed we want the lives of a similar number of Japanese."[92] Following this scenario, many more Japanese should have been prosecuted and therefore justice had not been fully carried out.

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[90] Smith, "Crimes and Punishment," 50.
[91] Ibid., 48-49.
[92] *Singapore Free Press*, 5 April, 1947; quoted in Smith, "Crimes and Punishment," 49.

Public opinion was not unanimous on this issue. The *Straits Times* published an editorial on April 5 reflecting a more moderate opinion:

> *… The brutal individuals who went through the farce of screening in the Chinese concentration camps, the butchers who did the actual killing, were not in the dock at the Massacre Trial. Each individual who read the reports of that trial must make up his own mind as to whether it is really possible to fix individual blame for orders for mass murder transmitted through all the descending levels of a rigidly disciplined military hierarchy…*[93]

This editorial called into question the very basis for the trial. If individual responsibility could not be established, how could the seven defendants be proclaimed guilty? The writer seemed to place the blame on the "military hierarchy." Did that mean that the entire Japanese army or officer corps stationed in Singapore should have stood trial? This would have been in line with previously mentioned Chinese demands for harsher justice.

However, the same editorial also declared: "It was not the seven individuals in the dock … who massacred those four thousand Chinese…. It was the Japanese military machine, in which those individuals were inextricably involved; and behind that machine was the spirit of that strange combination of medieval and modern militarism that was Japan in 1942."[94] These statements removed responsibility for individuals and placed it squarely on the Japanese

[93] PRO: WO 235/1004, *Transcript*, 35.
[94] Ibid.

military ideology. If this were true, no individual could be responsible because they had been brainwashed into committing the atrocities.

Public opinion was thus torn. Approaches that are more moderate ascribed responsibility to Japanese military ideology as a whole but they undermined the basis for the Chinese Massacres trial. More radical thinkers, on the other hand, remained unsatisfied with the trial's verdict and called firstly, for death sentences for all seven officers, and secondly, for further arrests and investigations of potential criminals. Especially in the early sixties, these strong feelings were couched in terms of a 'blood debt,' signifying that repayment of the debt needed more than two deaths.[95] The second method called for collective responsibility because all military personnel involved in the massacres were culpable.

Public Opinion in the 1960s

A significant portion of the Chinese population felt that justice had not been served. The debate over the responsibility question resumed in the 1960s with the discovery of mass graves in the Siglap area. Popularly termed the 'blood debt,' the issue took on several different meanings. The original dispute over individual versus collective responsibility for the *sook ching* evolved to include economic and political connotations.

[95] "Promise of $100,000 For War Memorial," *Straits Times* (Singapore), 22 April 1963; "Shiina Flies in For a Two-Day Goodwill Visit," *Straits Times* (Singapore), 23 October 1966.

Immediately after the trial in 1947, 'blood debt' seemed to truly mean a debt of blood. Some of the population claimed that justice would not be done until more Japanese were convicted and sentenced to death. In the 1960s however, the blood debt no longer demanded Japanese lives but their money instead. Compensation for war crimes became a popular topic both in the government as well as in the public sphere.

On August 25, 1963, over 120,000 people, mainly Chinese, gathered in front of City Hall to demand $50 million in compensation for the blood debt. In addition, the Chinese Chamber of Commerce planned a boycott against Japanese goods to draw international attention to the situation. Unfortunately, the boycott would have coincided with the Singapore merger with Malaya and had to be suspended indefinitely much to former Singapore Prime Minister Lee Kuan Yew's relief.[96] The Prime Minister was acutely conscious of the help Japan could provide a developing nation in terms of capital investment and technical industry expertise and refused to allow the blood debt to alienate Japan. Lee writes in his autobiography, "I wanted to establish good relations to encourage their industrialists to invest in Singapore."[97]

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[96] Shimizu Hiroshi and Hirakawa Hitoshi, *Japan and Singapore in the World Economy* (London: Routledge, 1999), 186, 189.
[97] Lee Kuan Yew, *From Third World to First. The Singapore Story: 1965-2000* (New York: HarperCollins Publishers, 2000), 503.

Lee was also aware of the political divisiveness of the issue within the Singaporean government. Before the debt was settled, it was used as an issue to garner support during party elections particularly by the People's Action Party (PAP) and the left-wing Barisan Sosialis. A member of the Singapore Legislative Assembly was recorded as saying: "As a matter of fact, this matter of blood debt involves the sentiments of many people. It is actually quite an emotional matter. So if anyone can make use of this matter for political purposes, he will do it."[98]

The issue became tinged with Communism since the Communist-led party, the Barisan Sosialis, sided with the people who demanded compensation. The Barisan Sosialis accused the PAP of siding with Japan and breaking its promises to the people. There was some truth to this for Lee Kuan Yew was reluctant to pursue the matter for economic reasons as shown above. He also used the British as a stalling factor, claiming that the British government was still in charge of foreign affairs and that Singapore was in no position to make demands.[99] During this time, there was a hostile relationship between the PAP government and the ethnic Chinese public.[100] The blood debt had become a politically divisive problem.

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[98] Singapore Legislative Assembly (SLA), *Singapore Legislative Assembly Debates: Official Report. 1st Session of the First Legislative Assembly, Part I,* vol. 22, 13 December, 1963 (Singapore: Lim Bian Han, 1965), 520.
[99] SLA, *Singapore Legislative Assembly Debates: Official Report. 3rd Session of the First Legislative Assembly, Part IV,* vol. 18, 29 June, 1962, (Singapore: Lim Bian Han, 1964), 285-288.
[100] Hiroshi and Hitoshi, 189.

Finally, the blood debt was considered officially settled on October 26, 1966 when Japan pledged $25 million in grants and another $25 million in special loans as quasi-reparations. However, the Chinese Chamber of Commerce expressed surprise that the government had accepted the offer without consulting either the Chamber or the Appeal Committee for Singapore Chinese Massacred by the Japanese. The Committee in particular resented its exclusion and criticized the settlement, saying, "Settlement at government level will not eradicate the animosity of the people towards the Japanese on the issue."[101] The offer was considered inadequate since it was well below the original demand for $50 million. Lee had to exert personal pressure on the Chamber and the Committee to persuade them to drop the matter.[102]

But the issue remained open. In the 1990s, the concept of blood debt evolved to include extending a call for an official 'apology'. Thus moral responsibility for the massacres shifted from individual Japanese to Japan as a nation. Demands for an official apology for Japanese war atrocities existed as late as 1995 and continued sporadically even after Japanese Prime Minister Murayama Tomiichi issued a personal apology to all Southeast Asian nations for WWII atrocities. The issue of responsibility for the *sook ching* continues to

[101] "Shiina," *Straits Times* (Singapore), 23 October 1966.
[102] "Blood Debt Letter From Lee," *Straits Times* (Singapore), 1 November 1963.

be a live point today although the responsibility rests on Japan as a nation rather than on specific individuals.[103]

Conclusion

The Chinese massacres that occurred in February and March 1942 were a horrific time of uncertainty and danger in Singapore. Due to the randomness of the procedures at screening centers, it was never certain who would be taken away. At least five thousand civilians died and were buried in mass graves in those two months.

General Tomoyuki Yamashita of the Twenty-Fifth Army issued vaguely worded orders for the screenings; whether Yamashita did so carelessly and thoughtlessly, or if he cunningly predicted his subordinates' behavior and planned the orders in such a way that would allow him to maintain a distance from his subordinates' illegal behavior, is unclear. In any case, his subordinates in charge of the Singapore garrisons chose to interpret the orders to mean 'kill' the suspects. This was probably due in part to the speed at which the operations were carried out. Little time could be taken to double-check a detainee's guilt during interrogations and even less time could be taken to punish them. As a result, many civilians who did not fall under the literal scope of the original orders were taken away and killed.

[103] "War Policy Called a Mistake," *Daily Yomiuri* (Japan), 16 August, 1995.

The Chinese Massacres trial in Singapore in 1947 tried to determine who was responsible for the murders from a legal perspective by trying seven Japanese officers. The Japanese defense relied mainly on two arguments: the plea of superior orders and the plea of immediate military necessity. The prosecution countered with statements of command responsibility and illegality within Japanese as well as international law. In essence, the prosecution convinced the court that the defendants were responsible for consciously allowing their subordinates to commit atrocities. The fact that they were only following orders did not make them any less guilty.

Since the trial was widely publicized during its course and well known among the public, it was potentially a powerful means to an end by enabling closure of a chapter of a distasteful past. The Singapore Chinese had no real reason to forget the Japanese Occupation; instead, many believe that a lesson should be learned to ensure that it never happened again. From the perspective of those such as Lee Pei Chung who demanded revenge, a sense of legal justice served would have allowed them to move on from the past.

Although the trial sentenced two Japanese officers to death and five others to life imprisonment for *sook ching*, the Chinese public remained unsatisfied with the verdict. The Chinese felt such a sense of persecution during the Japanese Occupation that they demanded retribution, firstly in Japanese lives immediately after the war, and

later in financial compensation, to rectify the blood debt. The blood debt proved a contentious issue with possible domestic and international political complications in the 1960s in particular. However, no political message to the public specifically mentioned the Chinese Massacres trial. Rather, the larger issue of blood debt, where a sense of violation and personal injury remained strong, absorbed it. Demands in the 1990s for an official apology also prove that a sense of injustice continued to linger.

The Chinese Massacres trial, in its official capacity, stands for the deterrence of, and retribution for crimes committed against humanity. The fact that the trial was rarely mentioned in literature from the 1960s onwards did not mean that people perceived justice to have been done or that the matter was closed. On the contrary, the existence of the blood debt proved that the Chinese Massacres trial did not provide closure for much of the Chinese population in Singapore. A criminal trial for mass atrocities sometimes alleviates animosity and vengeful feelings in a population by proclaiming justice in a way that will provide a target for this anger but because of the manpower and financial limitations on legal processes, it would be impossible to try everyone—from the commanding general to the footsoldier—within a short amount of time. As the event receded into the past, it became less practical to target individuals for legal justice as potential defendants passed away or as the trail of evidence grew

colder. Instead, the focus on individual criminal responsibility transformed to mean collective moral responsibility which criminal trials are inadequate to deal with.

A second shift—from criminal to moral responsibility—therefore occurred in the 1960s where the state instead of the individual bore responsibility for crimes committed. The issue of moral responsibility spreads the blame among larger groups of people than criminal responsibility would, ensuring that the issue evolved from one that targeted specific individuals to one that focused on the enemy nation as a whole. In cases of large-scale massacre it is difficult even immediately after the incident to pinpoint individual responsibility, and almost impossible decades after the event. But if no sense of closure had been achieved, the enemy nation would be targeted as the one responsible. Since a nation cannot be a criminal defendant, the only other recourse is to demand payment for damages or an apology for crimes committed, thus ensuring that a measure of moral responsibility for the events is taken. The official apology in particular, is a symbolic gesture of acknowledging the event and taking responsibility for it. The apology has no material value other than being a conciliatory gesture. For the Singaporeans are no longer interested in bringing criminals, whoever they are, to justice; the attention is now concentrated on moral issues that the entire Japanese population should learn about and reflect upon.

This then leads to a question of when do demands for taking responsibility stop? Current Liberal Democratic Party (LDP) politicians such as former Prime Minister Murayama remember their participation in the war so there is at least an indirect connection to historical events. However, if they do not issue an official apology within their lifetimes, should the post-war generation of Japanese youth be expected to shoulder responsibility for crimes committed by their fathers or grandfathers? Partial responsibility, by acknowledging the existence of such atrocities and by ensuring that such things never happen again, should be considered adequate atonement.

Other questions regarding justice for mass atrocities are also raised, because looking at the results of the Chinese Massacres trial, it may be presumed that legal trials do little to assuage victims' vengeful emotions. Can justice for crimes of humanity be served in a court of law that by virtue of its structure can only indict a scanty number of perpetrators; who should they be? If the masterminds of the operation cannot be determined or are unavailable for prosecution, how far down the command ladder should justice search in order to hold someone liable for atrocities? Thus, the decision on who to indict is immensely important.

Another problem that is inherent in such trials examines the perception of justice itself. The argument can be made that in the

case of the 1947 trial, the native Chinese population did not perceive justice to have been served precisely because it was not *their* justice but a British concept of justice. Few Chinese were involved in the trial besides testifying against the defendants and none were given a chance to decide either the verdict or the punishment. Their lack of involvement may have spurred the clamoring for harsher punishment. After all, the British were not the ones victimized; how could they understand what it was like? The imposition of a Western colonial power's justice would only serve to incense the locals' opinions.

What does the Chinese Massacres trial then say about future trials for crimes of humanity? Despite the fact that the trial posed significant questions that must be answered, it nevertheless continued a precedent for war crime trials that began in Nuremberg and Tokyo. Issues such as command responsibility and the plea of superior orders are still relevant today and must be confronted before a successful trial can be held. Criminal liability is not always equal to moral responsibility, and in some cases where the victimized population feels that criminal responsibility is insufficient compensation, an admission of moral responsibility is required. A declaration of guilt, either through a court system or through acts of contrition such as apologies or reparations, should suspend feelings of injustice among the victims. The Chinese Massacres trial demonstrates that while criminal justice is clearly important, it is not a catch-all solution

especially in cases of mass atrocity where the criminal courts cannot adequately process all possible perpetrators.

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Bibliographical Essay

The basis of my senior thesis began several years ago when my grandfather described his experiences during the Japanese Occupation in Malaya to me. Stories of Japanese atrocities were tempered with an account of a kind soldier who took pity on my grandfather and allowed him to escape into the jungle when Chinese men were lined up to be deported in trucks. My grandfather was convinced that had he gotten onto a truck, he would never have returned alive.

After hearing such a compelling story, I became interested in examining the Japanese Occupation from a historical perspective. I had no specific subject in mind other than a vague inkling to write about the Chinese population in Malaya during the Occupation in some form or fashion. To this end, I consulted several secondary sources about World War II in Malaya, the most important being Paul H. Kratoska's *Japanese Occupation in Malaya*, to narrow my topic.

Kratoska's book is not only a comprehensive and well-researched account of Japanese social and economic polices during the Occupation, but it also provides invaluable references to primary source material. A short section titled "Japan and the Chinese Community," discusses the *sook ching,* and was instrumental in narrowing my search for a good topic. It was particularly useful in delineating the types of atrocities committed. Although the account is

brief, Kratoska refers to numerous Singaporean sources; the accounts collected by the Oral History Department of Singapore are most significant.

The copious number of English-language interviews and their easy accessibility confirmed, in my mind, that I should focus on the *sook ching* in Singapore rather than the whole of Malaya. The interviews proved invaluable in highlighting the haphazardness of the screenings as well as the Army's distinct focus on the Chinese population. However, the value of the interviews is limited in cases where specific details such as numbers of people killed are recorded. The interviews were conducted in the 1980s, some forty years after the war when survivors' memories are bound to be rather hazy. But the collection remains a priceless source of eyewitness testimonies; one whose voice, I believe, is more poignant than written accounts of the same events.

Beyond recording the events of the *sook ching*, I was interested in exploring the rationale behind the massacres, and if possible to examine the consequences of the atrocities as well. To this end, I began searching for other secondary material on the Singaporean *sook ching*. To my dismay, there were few English-language accounts of the *sook ching* other than brief descriptions contained in general history sources on the Pacific War or the Occupation such as Timothy Hall's *Fall of Singapore, 1942*.

Fortunately, Japanese scholar Yoji Akashi has produced a weighty body of work on the Japanese Occupation in Malaya. In addition, his article entitled "Japanese Policy Towards the Malayan Chinese," presents the fullest treatment of the Japanese military administration's rationale behind the decision for *sook ching* and also provides a sense of the chain of events leading up to the massacres. Akashi's well-written prose provides a chronological perspective of the Japanese military administrations and their policies. Akashi bases his writing primarily on Japanese-language materials, particularly his interviews with Japanese military officials. Although Akashi does a wonderful job presenting the useful information in an objective manner, there are a few instances where either the memories of his interviewees or their one-sided information create misleading information that is contradicted in other sources. One such example is the date on which the General Headquarters issued the orders for the massacres. Akashi mentions 17 February 1942 while Singaporean sources and war crimes trial records show that it should be the 18th.

In Akashi's defense, the lack of information from Japanese sources in WWII Singapore should be mentioned briefly. The Japanese burned a great deal of military and political documents as the war drew to a close and many scholars including Akashi, have mentioned the difficulty in piecing together the details of the Occupation. Consequently, I had to turn my attention away from

searching for Japanese documents and look for post-war documents about the Occupation that had a better chance of survival.

I was interested in pursuing the social and legal consequences of the *sook ching*. I had previous knowledge of the Tokyo and Manila war crimes trials and was keen to discover if something similar had taken place in Singapore. I read numerous articles and books and learned that individual Allies had indeed conducted war crimes trials in Asia. Since Singapore was a British colony both before and after the war, I concentrated my search on British war crimes trials, hoping to find something specifically on the Chinese massacres. I stumbled across Simon C. Smith's invaluable article, "Crimes and Punishment. Local Responses to the Trial of Japanese War Criminals in Malaya and Singapore, 1946-48," in the *Journal of Southeast Asia Research*. Not only did this confirm my suspicion that the British had conducted a trial for the Chinese massacres, but it also referred me to the trial transcript held by the British War Office. This article also alerted me to the fact that the trial was not a completely open and shut case; strong public dissent to the verdict existed.

During the process of searching for the trial transcript, Dr. Ted R. Bromund, associate director of International Security Studies at Yale University, was extremely helpful in alerting me to the online database of the Public Records Office, Kew, London where he thought War Office records might be located. Indeed, I discovered that the

transcript was available and open for public examination. Besides the transcript, the file also contains a collection of documents, numbering several hundred pages, which include signed witness testimonials, prosecution and defense statements, as well as the final court verdict. In the course of my research, I realized that few scholars have explored this wealth of material. Those that have only mention it briefly and do not use the transcript in reconstructing the events both before and during the massacres.

In order to make sense of the legal jargon in the transcript, I read many legal scholars' works on war crimes trials and war atrocities. *Obeying Orders* and *Mass Atrocity, Collective Memory and the Law* by Mark Osiel are the two most noteworthy publications. *Obeying Orders* discusses the law of due obedience in the military where a subordinate is supposed to follow orders without question--a central argument in the *sook ching* trial. Osiel argues persuasively for narrowing the definition of due obedience so that subordinates can be held responsible for any crimes committed regardless of whether they were clearly ordered by their superiors or not. While this argument is contains certain loopholes, the work was instrumental in understanding the prosecution's argument in the 1947 trial. In *Mass Atrocity*, Osiel describes the role of criminal trials in democratic transitions. This sophisticated and well-researched work claims that a war crime trial presents a forum for people to openly discuss human

rights issues. The trial's outcome should also create a sense of justice among the public that will hopefully allow them to slowly move on from the past. Despite the fact that my examination of the 1947 trial showed the result of the trial to be more contentious than conciliatory among the public, *Mass Atrocity* nevertheless provided important insights into the effects of war crimes trials.

After reading the Osiel works, I decided to formulate my thesis not only around exploring the massacres and the war crimes trial, but also around the public reaction to the trial. With this end in mind, I finally resolved to focus on the different opinions of criminal and moral responsibility for the massacres.